

Ari B. Teman

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The Honorable Judge Paul Engelmayer  
Southern District of New York  
40 Foley Square  
New York, NY 10007

February 18, 2022

**Re: Rule 33 Motion for a new trial, and related Motions to stay any remand to custody, and for recusal.**

Your Honor,

Based on newly discovered evidence of my innocence and the Government's withholding of exculpatory evidence, it is my intention to file a Rule 33 motion for a new trial.

I have discovered evidence of my innocence and further evidence that Mr. Bhatia and Mr. Gutwillig and their team willfully withheld exculpatory evidence, some but not all of which is in Dkt. No. 295. These facts will form the core of my Rule 33 motion.

In addition, I have also discovered that Noam Biale of Sher Tremonte misrepresented to me and my family that he had reached out to 18 Mercer shareholders, which delayed the discovery of the evidence of my innocence -- that the shareholders knew of the GateGuard payment terms and acknowledged to each other their liability to GateGuard -- and delayed the introduction of exculpatory evidence until after my sentencing. As you know, I have been critical of your Honor's close relationship with Mr. Biale.

This further evidence of misconduct by Mr. Biale is something I believe your Honor cannot judge fairly, given the mentor/mentee relationship between you and Mr. Biale. Accordingly, as part of my motion, I will be seeking your recusal from the merits of the Rule 33 motion and any new trial.

I have separately asked my appellate team to seek a stay of the pending appeal until the Rule 33 and related motions have been decided. In light of all this, I would respectfully request that the Court order and stipulate

that should I file a Rule 33 motion, bail pending a resolution of the appeal will be maintained. The Rule 33 motion is not a dilatory tactic, but one based on evidence I genuinely believe establishes my innocence.

Moreover, your Honor has determined that I am not a flight risk or a danger to the community and has authorized my travel to Australia. I should not be penalized for presenting evidence to the Court of my innocence of the charges against me.

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of connected loops and a long horizontal stroke extending to the right.

Ari Teman

Defendant, Pro Se